

REMARKS

Claims 1-86 are currently pending in the present application. Claims 1, 10, 12, 13 and 71-83 have been amended. No claims have been added, and none of the claims have been canceled. Claims 29-70 and 84-86 were withdrawn as a result of a restriction requirement. Therefore, claims 1-86 will remain pending in the application after entry of the foregoing claim amendments.

Claim Rejections – 35 U.S.C. § 101

Claims 71-83 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Without conceding the merits of the rejection, Applicants have amended the claims in an effort to facilitate prosecution. Specifically, claims 71-83 now recite a “computer-readable *storage* medium.”

Accordingly, Applicants respectfully submit that claims 71-83 are directed to statutory subject matter. Applicants respectfully request, therefore, withdrawal of the rejection under 35 U.S.C. § 101.

Claim Rejections – 35 U.S.C. § 112

Claims 71-83 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. In particular, the Office Action contends that the term “computer-readable medium” is not described in the specification “in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention” (Office Action dated July 24, 2008 (“Office Action”) at p. 3). Applicants respectfully traverse the rejection.

As stated in the Manual of Patent Examining Procedure (M.P.E.P.), “[t]here is a strong presumption that an adequate written description of the claimed invention is present when the application is filed.” M.P.E.P. § 2163. While “the issue of a lack of adequate written description may arise even for an original claim,” Applicants respectfully submit that the as-filed claims in the present application do not raise any such issues because one skilled in the art would clearly understand the meaning of the term “computer-readable medium

having computer-executable instructions” in view of its common use in the software community.

Moreover, as further stated in the M.P.E.P., “[t]he subject matter of the claim need not be described literally . . . in order for the disclosure to satisfy the description requirement.” M.P.E.P. § 2163.02. Here, the present specification provides a detailed description of a computer 100 for carrying out various disclosed embodiments.

For example, the specification notes that the “[c]omputer 100 may be any general purpose or specialized computing device capable of performing the methods discussed herein” (*Specification* at p. 7, ll. 19-21). Specifically, in describing the computer 100, the present specification states:

Computer 100 further comprises a processor 112 for data processing, memory 110 for storing data, and input/output (I/O) 114 for communicating with the network 120 and/or another communications medium such as a telephone line or the like. It will be appreciated that processor 112 of computer 100 may be a single processor, or may be a plurality of interconnected processors. Memory 110 may be, for example, RAM, ROM, a hard drive, CD-ROM, USB storage device, or the like, or any combination of such types of memory.

(*id.* at p. 8, ll. 2-9).

Accordingly, in view of the foregoing, Applicants respectfully submit that claims 71-83 comply with the written description requirement. Applicants respectfully request, therefore, withdrawal of the rejection of claims 71-83 under 35 U.S.C. § 112, first paragraph.

Claims 1 and 71 stand rejected under 35 U.S.C. § 112, second paragraph, for failing to provide sufficient antecedent basis for the term “user.” Applicants have amended claims 1 and 71 to provide sufficient antecedent basis.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1 and 71 under 35 U.S.C. § 112, second paragraph.

Claims 1, 2, 71 and 72 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. With regard to claims 1 and 71, the Office Action contends that is unclear whether “the computer or the remote device received the spoken command from the user” (Office Action at p. 3). In an effort to facilitate prosecution, Applicants have amended claims 1 and 71 to recite “receiving, *at the computer*, an audio signal in the form of a request from a user of the remote communications device.”

With regard to claims 2 and 72, the Office Action contends that “wherein said establishing step is initiated by the computer” renders the claims indefinite because paragraph [0059] of the specification notes that “such establishing a communication connection with a computer is initiated by the user by way of a cellular phone” (*id.* at p. 4). Applicants respectfully disagree.

As noted on page 4, lines 21-23 of the specification, the communications channel for enabling communication between the computer and the remote communications device may be initiated “by either the computer or the remote communications device.”

Accordingly, in view of the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1, 2, 71 and 72 under 35 U.S.C. § 112, second paragraph.

Claim Rejections – 35 U.S.C. § 102

Independent Claims

Independent claims 1 and 71 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,950,167 (“Yaker”). Without conceding the merits of the rejection, Applicants have amended the claims to further clarify the claimed subject matter.

As amended, claims 1 and 71 recite, in part, receiving an audio signal in the form of a request from a user of a remote communications device. The audio signal is received ***via an Internet telephonic connection*** and then conditioned to facilitate processing by a sound recognition module. The conditioned audio signal is processed to determine a desired function, which is performed in response to the received audio signal.

As acknowledged in the Office Action, Yaker does not disclose receiving audio signals over an Internet telephonic connection, such as Voice over Internet Protocol (*see* Office Action at p. 7). Instead, the Office Action has taken Official Notice that “such is notoriously well known in the art” (*id.*). As such, the Office Action concludes that “it would have been obvious to one of ordinary skill in the art . . . to utilize such a wireless communication registration technique in order to reduce the amount of time spends [sic] unnecessarily processing messages” (*id.*). Applicants respectfully disagree.

The Official Notice in the Office Action is improperly based on a conclusory finding that is unsupported by any evidence in the record or reasonable supporting explanation by the Examiner. If the claimed feature of receiving an audio signal via an Internet telephonic

connection is, in fact, well-known as the Examiner alleges, the Examiner could readily provide some documentary evidence or prior art references to support such an assertion. Thus, Applicants respectfully request that the Examiner provide such documentary evidence or prior art references to support the Official Notice in the Office Action.

If, on the other hand, the Examiner is relying on personal knowledge to support the Official Notice of what is known in the art, and no documentary evidence or prior art references can be provided, Applicants respectfully request that the Examiner provide an affidavit or declaration setting forth specific factual statements to support the Official Notice, in accordance with M.P.E.P. § 2144.03. Such an affidavit will provide Applicants an opportunity to properly evaluate the basis of the current rejection so that Applicants may traverse the assertions in the Office Action or further explain the claimed subject matter.

In addition to the above, Applicants respectfully submit that Yaker does not teach or suggest conditioning the audio signal received via the Internet telephonic connection to facilitate processing by a speech recognition module, as recited in claims 1 and 71. For example, as noted in the present specification, an embodiment may include “softphone” software to facilitate Internet telephonic communications (*see Specification* at p. 12, ll. 23-27). The embodiment may further include “Virtual Audio Cables” that are configured to permit audio to flow from the softphone software to the speech recognition software, and from the text-to-speech software to the softphone software (*id.* at p. 13, ll. 21-23). As Yaker does not teach or even suggest receiving an audio signal via an Internet telephonic connection, Yaker obviously does not disclose conditioning such an audio signal so that it may be processed by a sound recognition module.

Accordingly, for at least the foregoing reasons, Applicants respectfully submit that claims 1 and 71 patentably define over Yaker. Applicants respectfully request, therefore, withdrawal of the rejection of claims 1 and 71 under 35 U.S.C. § 102(b).

Dependent Claims

Claims 3, 4, 8, 12-17, 21, 23-27, 73-79 and 83 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yaker. As claims 3, 4, 8, 12-17, 21 and 23-27 depend from claim 1, and claims 73-79 and 83 depend from claim 71, Applicants further submit that these claims likewise patentably define over Yaker for at least the same reasons discussed above.

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Applicants respectfully request, therefore, withdrawal of the rejection of claims 3, 4, 8, 12-17, 21, 23-27, 73-79 and 83 under 35 U.S.C. § 102(b).

Claim Rejections – 35 U.S.C. § 103

Claims 5-7, 9-11, 18-20, 22, 28 and 80-82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yaker. As claims 5-7, 9-11, 18-20, 22 and 28 depend from claim 1, and claims 80-82 depend from claim 71, Applicants respectfully submit that these claims likewise patentably define over Yaker for at least the same reasons discussed above.

Applicants respectfully request, therefore, withdrawal of the rejection of claims 5-7, 9-11, 18-20, 22, 28 and 80-82 under 35 U.S.C. § 103(a).

CONCLUSION

In view of the foregoing, Applicants respectfully submit that the claims are allowable and that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact the undersigned attorney, Bryan T. Giles, at (215) 564-8954 to discuss the resolution of any remaining issues.

Respectfully submitted,

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/Bryan T. Giles/
Bryan T. Giles
Registration No. 60,078

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439